

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Takashi NAGAI

Docket No.: 26281-22A

Serial No.: 10/586,818

Examiner: John Goodrow

Filed: July 20, 2006

Art Unit: 1795

Title: Developing Method and Developing Unit

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CORRESPONDENCE CONCERNING DEFECTIVE OATH OR DECLARATION

The Examiner has asserted that a substitute declaration or oath is needed because the declaration is defective in not identifying the PCT international application. The Examiner states that the inventor should be swearing to the "specification which was filed on 28 February 2005, as PCT International Application Number PCT/JP2005/3331."

Applicant respectfully disagrees that the declaration is defective and respectfully submits that a substitute declaration is therefore not required.

The present declaration, which parallels the language of PTO form SB/01 contains the language:

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (of only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled "DEVELOPING METHOD AND DEVELOPING UNIT", the specification of which (check one)

X is attached hereto

was filed on _____ as Application Serial No. _____
and was amended on _____ (if applicable). (emphasis added)

37 CFR 1.63(b)(1) states that the declaration must identify the application to which it is directed.

Applicant respectfully submits that the declaration was included with the application as filed and thus applicant correctly indicated that the declaration was attached thereto. The language of Applicant's declaration states (check one) and the language of PTO form SB/01 uses OR. Thus both the form declaration and the declaration in the present application have a box to check when the application is attached to the declaration, which in this case would mean that the declaration was filed with the application, which also included a copy of the International Publication and an English language translation of the application.

For these reasons, Applicant respectfully submits that the present application meets the requirements of 37 CFR 1.63(b)(1) because the declaration identifies the application to which it is directed by indicating that the application is attached hereto.

Applicant thus respectfully submits that it is not necessary to amend the declaration in the manner suggested by the Examiner because applicant is properly identifying the application which was attached to the specification with the filing of the application. Applicant respectfully submits that the alternative language would only be applicable if Applicant filed the declaration

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separate from the application and was referencing an earlier filed application. Furthermore, Applicant properly makes reference to the PCT International Application in the Claim of Foreign Priority Benefits set forth in the declaration and the application number and date of filing of the International Application are included with this reference.

For all of these reasons it is respectfully submitted that a new oath or declaration is not needed in the instant application and that the requirement for new oath or declaration should be withdrawn.

Respectfully submitted,

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